

**Publication Date:** February 17, 2011

## **NOTICE OF COMMISSIONER'S SALE**

NOTICE IS HEREBY GIVEN, that in pursuance of the authority and directions contained in the decretal Order of the Circuit of Sebastian County, Fort Smith District thereof, made and entered on the 3rd day of February, 2011, in a certain cause number CIV-2010-2277(V), then pending therein between UNITED FEDERAL CREDIT UNION f/k/a FIRST RESOURCE FEDERAL CREDIT UNION, Plaintiff, versus KENNETH CREEKKILLER, Defendant, the undersigned, as Commissioner of said Court, will offer for sale at public vendue to the highest bidder, at the front door or entrance of the Sebastian County Courts Building, located at 901 South "B" Street, in which said Court is held, in the County of Sebastian, Fort Smith District, at 10:00 a.m. on Tuesday, the 1st day of March, 2011 the following described real estate, to-wit:

Lot 9, Block 47, Bailey Addition to the City of Fort Smith, Sebastian County, Arkansas, according to plat filed January 15, 1908, more commonly known as 1711 South "T" Street, Fort Smith, Arkansas

in Sebastian County, Arkansas.

TERMS OF SALE: On a credit of three (3) months, the purchaser being required to

execute a bond as required by law and the Order and Decree of said Court in said cause,  
with approved security, bearing interest at the rate of ten (10%) per cent per annum from date of  
sale until paid, and a lien being retained on the premises sold to secure the payment of the  
purchase money.

Given under my hand this 14th day of February, 2011.

KEN BLEVINS, COMMISSIONER

By *Ken Blevins*  
Deputy Circuit Clerk



BILL: Hon. Chris Parks  
LEDBETTER, COGBILL, ARNOLD & HARRISON  
P.O. Box 185  
Fort Smith AR 72902-0185  
479.782.7294

cc: Hon. Chris Parks  
*TIMES RECORD* (by fax)

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FT SMITH DIST.  
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*See Hall*  
CIR. CLERK SEB. CO.

**IN THE CIRCUIT COURT OF SEBASTIAN COUNTY, ARKANSAS  
FORT SMITH DISTRICT  
CIVIL DIVISION V**

**UNITED FEDERAL CREDIT UNION f/k/a  
FIRST RESOURCE FEDERAL CREDIT UNION**

**PLAINTIFF**

**V/S**

**CASE NO.: CV 2010-2277**

**KENNETH CREEKKILLER**

**DEFENDANT**

**DEFAULT DECREE**

**NOW** on this day this cause comes for hearing and comes the Plaintiff, United Federal Credit Union f/k/a First Resource Federal Credit Union by and through its attorneys, Ledbetter, Cogbill, Arnold, & Harrison, LLP and the Defendant, Kenneth Creekkiller appears not though duly served with Summons and Complaint in the time and in the manner prescribed by law, and it further appearing to the Court from the pleadings, exhibits and Summons with Sheriff's return thereon, the Affidavits of Service, the original Note and Mortgage sued on herein from all of which the Court being well and sufficiently advised as to all matters of fact and law arising herein finds as follows:

1. The Plaintiff filed its Complaint against the Defendant on December 20, 2010, and the Defendant was served with the Complaint on January 4, 2011.

2. More than twenty (20) days have passed since the service of the Plaintiff's Complaint, and the Defendant has failed to answer, appear or otherwise defend the Complaint.

3. That the allegations of the Complaint herein are true and that on or about August 16, 2005, the Plaintiff loaned to the Defendant, Kenneth Creekkiller, the sum of thirty two thousand three hundred and 00/100 dollars, (\$32,300.00) evidenced by his/her/their promissory note and Mortgage dated August 16, 2005 with interest from date until paid at the rate of 5.5% per annum, the Mortgage being recorded as Document No. 7169534 of the Circuit Clerk and Ex-officio Recorder of the Fort Smith District of Sebastian County, Arkansas.

4. That the payments due and payable on the Note and Mortgage have not been paid by Kenneth Creekkiller or anyone on his behalf, and by reason thereof the Defendants have defaulted in the covenants as provided in the Note and Mortgage as alleged; that the conditions of the Note and Mortgage have not been performed and the right of the Plaintiff to a foreclosure thereon has become absolute; that under the provisions of the Note and Mortgage sued on herein by the Plaintiff, it is provided that in the event a suit for collection becomes necessary, the Plaintiff shall have a reasonable attorney's fee for its attorneys and the Plaintiff is entitled to a reasonable fee for its attorneys pursuant thereto.

5. That the Plaintiff is entitled to Judgment against the Defendant, Kenneth Creekkiller, on the Note and Mortgage dated August 16, 2005, in the sum of eighteen thousand six hundred sixteen and 92/100 dollars, (\$18,616.92) unpaid principal with accrued unpaid interest through February 1, 2011 in the sum of five hundred eight and 92/100 dollars, (\$508.92) further daily accruing interest from and after February 1, 2011 at the rate of \$2.81 per day, title cost of \$150.00 ,filing fees in this action of \$185.00, service costs of \$61.33 and a fee for Plaintiff's attorneys of \$ 1750.00, together with all other costs which Plaintiff may be compelled to expend on the Mortgaged property.

**IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED**

by this Court that the Plaintiff, United Federal Credit Union f/k/a First Resource Federal Credit Union have and recover of and from the Defendant, Kenneth Creekkiller, the sum of eighteen thousand six hundred sixteen and 92/100 dollars, (\$18,616.92) principal, accrued interest through February 1, 2011 in the sum of five hundred eight and 92/100 dollars, (\$508.92) further daily accruing interest from and after February 1, 2011 at the rate of \$2.81 per day, title cost of \$150.00 ,filing fees in this action of \$185.00, service costs of \$61.33 and a fee for Plaintiff's attorneys of \$ 1750.00, together with all other costs which Plaintiff may be compelled to expend on the Mortgaged property, and for any additional costs which Plaintiff may be compelled to expend for taxes, insurance or otherwise prior to the satisfaction of this said Judgment with post-judgment interest on all of the above sums constituting this Judgment at the rate of 10% per annum.

That the Plaintiff have a lien upon the property hereinafter described by virtue of the Mortgage and obligation sued on herein to secure the payment of these sums and accruing interest which is prior and paramount to any right, title, claim, interest or equity of any and all of the Defendants or their privies in blood or estate or anyone claiming or holding any right, title, claim, interest or equity acquired since the recording of the Mortgage. That if the sums of money and interest thereon as herein adjudged to be due should not be paid within ten (10) days from the date hereof, together with such costs as are hereinafter adjudged to be paid by the Defendants, the Commissioner of the Court hereinafter named, after she shall have advertised the time, terms and place of sale in accordance with Arkansas law by publication in some newspaper published in the Fort Smith District of Sebastian County, Arkansas, and having a bona fide circulation therein, shall sell the same at the front door of the courthouse in Sebastian County,

Arkansas, at public venue to the highest bidder on a credit term of three months, the following described real property situated in the Fort Smith District of Sebastian County, Arkansas to wit:

Lot 9, Block 47, Bailey Addition to the City of Fort Smith, Sebastian County, Arkansas, according to plat filed January 15, 1908, more commonly known as 1711 South "T" Street, Fort Smith, Arkansas.

That the purchaser at such sale shall be required to execute a bond for security thereon to be approved by the Commissioner making the sale and the lien on the property shall be retained to secure the payment of the bond given for the purchase price bid at such sale, provided that if the Plaintiff, United Federal Credit Union f/k/a First Resource Federal Credit Union becomes the purchaser at such sale for a sum equal to or less than this Decree, in lieu of giving the bond as herein required, it may, upon the confirmation of the sale, credit the amount of its bid less the cost to be paid by the Defendants, and the fees allowed the Commissioner for executing this Decree, which shall be an extinguishment of the amount herein adjudged to be due to the extent of such credit and that if its bid shall exceed the amount herein adjudged to be due with interest, it shall be required to execute a bond only for the excess.

That upon the sale of the property as aforesaid and the confirmation thereof by the Court, all the right, title and equity of redemption of the Defendant, Kenneth Creekkiller, in and to the said real property and every part thereof shall be and the same are hereby adjudged and decreed from that date to be foreclosed and forever barred. That the costs of this action shall be paid by the Defendant, Kenneth Creekkiller and that the Clerk of this Court is hereby nominated and appointed to be the Commissioner of this Court to execute this Decree. She shall make the sale herein provided for and shall report her doings in this behalf to the Court for its action thereon.

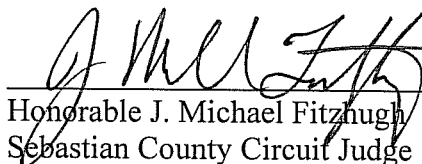
The proceeds from such sale shall be applied first to the cost of the sale, next to the Judgment in favor of the Plaintiff, and the balance thereof, if any, shall be retained by the Clerk, the disposition of said balance, if any, to be determined at future hearing.

The purchaser at said sale of the property shall be put in possession thereof and the Defendants and any other person or persons who may have obtained possession of any portion of said property shall deliver possession thereof to the purchaser on presentation to him of the Commissioner's Deed to the same and should possession not be so delivered, the Clerk of this Court is hereby ordered to issue a Writ of Assistance to put the purchaser in possession of the property upon demand so to do.

**IT IS FURTHER CONSIDERED, ORDERED, AND ADJUDGED** that the Judgment debtors shall each prepare a scheduled, verified by Affidavit, of all of their property, both real and personal, including bank accounts, rights, credits and choses in action held by the respective debtor and specify the particular property which that debtor claims as exempt under Arkansas law. This schedule shall be filed with the Clerk of the Fort Smith District of the Sebastian County Circuit Court, within 45 days from the date of this Judgment.

This Court retains jurisdiction of this cause for such further orders as may be proper to enforce the rights of the respective parties hereto as herein adjudged and the rights of such as hereinafter become party to this action by proper proceeding.

DATED this 3 day of Feb, 2011.

  
 Honorable J. Michael Fitzhugh  
 Sebastian County Circuit Judge